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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,703	11/12/2003	Marlies Regiert	REGIERT ET AL-2	9249
25889	7590	06/01/2009	EXAMINER	
COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			OLSON, ERIC	
			ART UNIT	PAPER NUMBER
			1623	
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			06/01/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Detailed Action

Thus action is in response to Applicant's amendment submitted May 13, 2009,
After Final.

Applicant's amendment, submitted May 13, 2009, has been entered into the record as it does not raise any new issues for search or consideration, merely correcting the spelling of linoleic acid in claims 19 and 20. Furthermore, although claim 21 is listed in the amendment as being a new claim, it is not new and has not in fact been amended from when it was introduced in the amendment of June 6, 2008.

Applicant's arguments and request for reconsideration, submitted May 13, 2009, have been fully considered and not found to be persuasive to remove the rejections of record in the previous action of March 9, 2009. Applicant argues that one of ordinary skill in the art would not have been able to predict that omega-6 fatty acids would complex with alpha-cyclodextrin based on the prior art disclosure that omega-3 fatty acids can be complexed and stabilized in this manner. Applicant bases this argument for unpredictability on the observation that the differing positions of the double bonds in omega-3 and omega-6 polyunsaturated fatty acids will cause the molecules to have kinks in different locations which could disrupt their complexation with the cyclodextrin. However, cyclodextrins are widely known in the art to be broadly able to complex many different guest molecules, as is acknowledged in column 3 lines 47-59 of Wagu, which references a number of different classes of hydrophobic compounds that complex with

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cyclodextrins. Considering that there is no teaching in the art which would cause one of ordinary skill in the art to doubt the ability of these particular fatty acids, among all hydrophobic small molecules, to complex with cyclodextrins, one of ordinary skill in the art would have been confident of the ability of cyclodextrins to complex polyunsaturated fatty acids in general.

Applicant further argues that the claims are directed to a particular specific ratio of between 3:1 and 4:1 cyclodextrin molecules per molecule of fatty acid, which is narrower than the broad range disclosed by Wagu. However, selecting a narrow range from a broad range of ratios disclosed in the prior art is within the ordinary and routine level of skill in the art and is *prima facie* obvious.

Applicant further argues that the specific range of between 3:1 and 4:1 cyclodextrin:fatty acid is required for the improved stability found in the instantly claimed compositions, and that this stability is therefore unexpected compared to the prior art. While it is true that the instant specification as disclosed in figure 1 gives evidence of unexpectedly improved stability for a 3:1 or 4:1 ratio as compared to a 1:1 or 2:1 ratio, the disclosure does not compare these ratios to the higher ratios of 5:1, 6:1, 11:1, 18:1, or 32:1 disclosed in the prior art. Therefore the unexpected results do not serve to differentiate the claimed invention from these higher ratio embodiments of the prior art.

For these reasons the rejection is deemed proper and maintained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC S. OLSON whose telephone number is (571)272-9051. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shaojia Anna Jiang can be reached on (571)272-0627. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eric S Olson/
Examiner, Art Unit 1623
5/28/2009

/Shaojia Anna Jiang/
Supervisory Patent Examiner, Art Unit 1623